

MR2919-18
Serial Number: 09/662,991
Reply to Final Office Action dated 12 December 2005

REMARKS

This case has been carefully reviewed and analyzed in view of the Office Action dated 12 December 2005 in the above-referenced Patent Application. Responsive to that Office Action, additional Declarations are submitted herewith under 37 C.F.R. § 1.131, and reconsideration is respectfully requested of the Examiner's rejection of Claims 1-18 under 35 U.S.C. § 103(a) as being unpatentable over the Clarke, et al. reference in view of the Buer reference.

In an earlier filed Response, the Declaration of Tao-Fei Samuel Ng under 37 C.F.R. § 1.131 was submitted with supporting documentation to disqualify the primarily-cited Clarke, et al. reference as applicable prior art. In the final Office Action, however, the Examiner stated that this Declaration was deficient in several respects, and on that basis maintained the earlier rejection of Claims 1-18 in view of Clarke, et al. and Buer.

The Examiner stated in the Office Action that the earlier-filed Declaration did not specify whether actual reduction to practice had been established in this country or a NAFTA or WTO member country. The Examiner further indicated that absent special circumstances, either the supporting Declarations of all the named Inventors, or of the assignee or other party in interest (where not possible to produce the declarations of the inventors) must be submitted. The Examiner indicated also that clearer explanations of the facts and data being relied upon to establish prior invention must be set forth.

It is believed that the attached Supplemental Declaration of Tao-Fei Samuel Ng, coupled with the affirming Declarations of the three other named Inventors presently available, and that of Janice Baker attesting to the present unavailability of the fifth named Inventor, now obviate the Examiner's concerns. Moreover, as their respective

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Declarations attest, the four available Inventors (Ng, Dhamdhere, Cain, and Davidson) are each still employed with Atheros Communications, Inc., the assignee of record. As such, they collectively declare on behalf of the assignee, given the present unavailability of the fifth named Inventor (which is attested to on behalf of the assignee by the Baker Declaration.

It is respectfully submitted, therefore, that the primarily-cited Clarke, et al. reference does not constitute prior art as to the subject Patent Application. Thus, withdrawal of the outstanding rejection of Claims 1-18 under 35 U.S.C. § 103(a) is respectfully requested.

It is respectfully submitted that the subject Patent Application has now been placed fully in condition for allowance, and such action is respectfully requested.

Respectfully submitted,
For: ROSENBERG, KLEIN & LEE


Jun Y. Lee
Registration #40,262

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Suite 101
3458 Ellicott Center Drive
Ellicott City, MD 21043
(410) 465-6678
Customer No. 04586

CERTIFICATE OF FACSIMILE

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5/12/2006
Date


Jun Y. Lee